

REMARKS

Claims 1-7, 11-14, 17, 18, 21, 22, 25, 26, 34, 35, 37, 38 and 45-59 are pending in the present application.

Claim 1 has been amended.

No new matter has been entered by the amendment.

Reconsideration on the merits is respectfully requested.

The claims are believed to be allowable for the reasons set forth herein. Notice thereof is respectfully requested.

Claim Rejections - 35 USC § 112

Claims 1-7, 11-14, 17-18, 21-22, 25-26, 32-35, 37-38 and 45-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 has been amended thereby rendering the rejection moot. The rejection of claims 2-7, 11-14, 17-18, 21-22, 25-26, 32-35, 37-38 and 45-59 is rendered moot by amendment to claim 1.

Claim Rejections - 35 USC § 102

Claims 1, 6-7, 11-12, 34 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Kohda (US Pre Grant Publication 2002/0166977).

Kohda is cited as disclosing a support comprising an intermediate layer arrangement of an X-ray absorbing foil (element 211a) and further from the support a stimulated light reflecting foil (element 215). The Office has mischaracterized element 211a.

In paragraph [0260] Kohda specifically states that the entire substrate, which is the combination of the first substrate, 211, and second substrate, 211a, has an absorptivity of approximately 5%. It is clear from the description and figures that the first substrate is significantly thicker than the second substrate and therefore the second substrate would contribute a negligible amount of absorption of x-radiation.

The second substrate is further described in paragraph [00252] to be a 188 μm thick layer of polyethylene terephthalate which is clearly understood to be essentially transparent to x-radiation.

In contradication to the position of the Office Kohda et al. fails to recite the x-ray absorbing foil as described in claim 1 and, contrarily, teaches a support which is essentially

transparent to x-rays. Kohda et al. therefore fails to obviate claim 1 or any claim depending therefrom.

The rejection of claims 1, 6-7, 11-12, 34 and 37 under 35 U.S.C. 102(e) as being anticipated by Kohda (US Pre Grant Publication 2002/0166977) is traversed based on the failure of the reference to recite at least one element of the claim.

Claim Rejections - 35 USC § 103

Claims 2-5, 35, 38, 46-47, 51-52 and 56-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohda (US Pre Grant Publication 2001/016697) in view of Robinette (USP 5,091,928).

Kohda et al. is cited as disclosing the limitations of claim 1 except for the x-ray absorbing layer comprising lead or lead oxide. As pointed out above the layer considered by the Office to be an x-ray absorbing layer is actually a polyethylene terephthalate layer which is known to be essentially transparent to x-radiation. Kohda et al. also states that the substrate (first and second substrates combined) should have an x-ray absorbance of less than 20%, more preferably less than 10% and the examples suggest 5% is most preferable.

The Office is now opining that it would be obvious to include lead or lead oxide into a layer which is intended to be

transparent to x-rays. It is widely known in the art that lead and lead oxide are absorbers of x-radiation. Including an x-ray absorbing into a layer which is intended to be transparent to x-rays is contrary to the teachings in the art.

In reaching for a position of obviousness the Office has combined two pieces of art, based solely on hindsight reconstruction, wherein the layer of focus is intentionally transparent to x-rays. Lead and lead oxide is then incorporated to destroy the transparency of the intentionally transparent layer. To reach this hindsight reconstruction requires that the teachings of the primary reference be ignored. This is clearly an improper basis for a rejection and withdrawal is respectfully requested.

The rejection of claims 2-5, 35, 38, 46-47, 51-52 and 56-67 under 35 U.S.C. 103(a) as being unpatentable over Kohda (US Pre Grant Publication 2001/016697) in view of Robinette (USP 5,091,928) is traversed as being a hindsight reconstruction based solely on the instant application and further requiring that the teachings of the primary reference be vacated. Applicants respectfully request that the rejection be withdrawn.

Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohda (US Pre Grant Publication 2001/016697) in view of Kano (USP 5,012,107).

Kohda is cited as disclosing the limitations of claim 1. As addressed above Kohda et al. fails to recite the claimed x-ray absorbing layer and teaches against such a layer in the configuration claimed. The Office acknowledges that Kohda also fails to recite embossing the intermediate layer and relies on Kano for such teachings.

Assuming, arguendo, that Kano does teach embossing there is still no teaching to suggest that a layer which is intentionally transparent to x-radiation should be replaced with an x-ray absorbing layer. Kano fails to mitigate the deficiencies of Kohda. The rejection is therefore improper for the same reasons as above based on Kohda taken alone or with Robinette.

The rejection of claims 13-14 under 35 U.S.C. 103(a) as being unpatentable over Kohda (US Pre Grant Publication 2001/016697) in view of Kano (USP 5,012,107) is improper and traversed. Applicants respectfully request that the rejection be withdrawn.

Claims 17-18, 21-22, 25-26, 45, 48-50, 53-55 and 58-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohda (US Pre Grant Publication 2001/016697).

Kohda is discussed above relative to claim 1. In summary, Kohda fails to recite the x-ray absorbing layer as set forth in claim 1. The Office also acknowledges that Kohda fails to recite the exact positioning of protective layers as set forth in the claim but that the order of layers is an obvious variant. Applicants respectfully disagree.

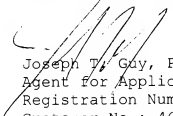
The order of layers is critical with regards to image quality. Even if moving the protective layers was attempted one of skill in the art would still lack any teachings from Kohda regarding the ordering of x-radiation absorbing layers. In fact, Kohda teaches an order which directly conflicts with the claimed invention and would therefore lead a skilled artisan away from the claimed invention. The rejection based on Kohda is improper due, at least, to the failure of Kohda to recite the order of layers as set forth above.

The rejection of claims 17-18, 21-22, 25-26, 45, 48-50, 53-55 and 58-59 under 35 U.S.C. 103(a) as being unpatentable over Kohda (US Pre Grant Publication 2001/016697) is traversed.

CONCLUSIONS

Claims 1-7, 11-14, 17, 18, 21, 22, 25, 26, 34, 35, 37, 38 and 45-59 are pending in the present application. All claims are believed to be in condition for allowance. Notice thereof is respectfully requested.

Respectfully submitted,



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